CWP No. 568 of 2005.

21-3-2007: Present: Mr. Ankush Dass Sood, Advocate, for the petitioners.

Mr. M.S. Chandel, Advocate General with Mr. R.M. Bisht, Deputy Advocate General , for respondents No.1 to 4.

Mr. Dinesh Kumar, Advocate, for Respondent No.5.

Ms. Sunita Sharma, Advocate, for Respondent No.7.

This writ petition is directed against the order passed by the Assistant Registrar, Cooperative Societies, Solan dated February 25, 2005 whereby he has passed an order under Section 69 (2) of the H.P. Cooperative Societies Act, 1968, directing that one Shri Bansi Lal (Respondent No.6 in the present writ petition), shall pay a sum of rupees 5, 55, 664/- along with interest amounting to Rs. 2, 59, 807/- with effect from April 1, 2004 till February 25, 2005 and future interest at the rate of 12% per annum to Dr. Y.S. Parmar University of Horticulture and Forestry Employees Cooperative Credit-cum-Consumer Society Limited, Nauni (respondent No.5 herein). The Assistant Registrar has further ordered that in case the entire or any portion of this amount is not recovered from said Shri Bansi Lal, then the same shall be recovered, in equal shares, from the petitioners and proforma respondents No. 8 to 16 in the petition. The petitioners and the proforma respondents have been held liable on the ground that they being the members of the Managing Committee of respondent No.5 Society, did not perform their duties under the bye-laws and, therefore, they were liable to pay the loss which has occurred to the Society.

We do not want to go into the merits of this case. Bansi Lal, aforesaid, has not challenged the award passed against him and the said award is up-held as far as he is concerned.

The main ground of challenge in this petition is that the petitioners have been condemned unheard. On the last date of hearing, i.e, on December 8, 2006, we had directed that the respondents No.1 to 4 shall produce the record of the Assistant Registrar Cooperative Societies.

We have carefully gone through the record. We find that though notices were issued to the petitioners to be present in the case, no notice was ever issued to the petitioners and the proforma respondents that any recovery is sought to be made from them. It is well settled principle of law that the rules of natural justice have to be followed in letter and spirit when the civil rights of any party are to be affected. In this case without issuing any show cause notice clearly informing the petitioners and the proforma respondents that sur-charge proceedings are to commence against them, they have been asked to pay the amount even though they were shown only as proforma respondents in the proceedings before the Assistant Registrar.

We are of the view that the petitioners and the proforma respondents were not given adequate opportunity to put-forward their case. Therefore, the award of the Assistant Registrar dated February 25, 2005 in so far as it orders recovery of the amount from the petitioners and proforma respondents is bad in law and is liable to be set aside. We, however, want to clarify that in case any order is sought to be passed against the petitioners, the respondents shall be at liberty

to do so by issuing proper show cause notice and taking action strictly in accordance with law.

CMP No. 1167 of 2005.

In view of the disposal of the writ petition, the interim order, if any, stands vacated and the application is disposed of.

(Deepak Gupta), J.

(Surinder Singh),J.

March 21, 2007.
(BM)